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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 UNIVERSITY OF PITTSBURGH OF THE
12 COMMONWEALTH SYSTEM OF HIGHER
13 EDUCATION d/b/a UNIVERSITY OF
PITTSBURGH, a Pennsylvania non-profit
corporation (educational),

No. C-08-2973 MMC

**ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANT'S
ADMINISTRATIVE MOTION TO FILE
EXHIBITS UNDER SEAL**

14 Plaintiff,

15 v.

16 VARIAN MEDICAL SYSTEMS, INC., a
Delaware corporation,

17 Defendant.

18 _____ /
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20 Before the Court is defendant's Administrative Motion, filed July 2, 2008, to file under
21 seal Exhibits A through X to the "Sealed Declaration of Matthew H. Poppe," filed in support
22 of defendant's motion to transfer the instant action to the Western District of Pennsylvania.

23 On July 17, 2008, defendant filed, in support of its Administrative Motion, a
24 Supplemental Declaration of Matthew H. Poppe, in which defendant identifies the entity or
25 individual by whom each such exhibit was designated as confidential. Specifically,
26 defendant states that: (1) Exhibits A through D, and Exhibits F, G, and R through W were
27 designated as confidential by plaintiff; (2) Exhibits D, E, and H through Q were designated
28 as confidential by non-party Carnegie Mellon University ("CMU"); (3) Exhibit F was

1 designated as confidential by non-party Eckert Seamans Cherin & Mellott, LLC ("Eckert
2 Seamans"); and (4) Exhibit X was inadvertently submitted for filing under seal rather than
3 filed in the public record.¹

4 Thereafter, on July 22, 2008, plaintiff filed the Declaration of Rita E. Tautkus in
5 support of plaintiff's designation as confidential of Exhibit S and portions of Exhibits R and
6 W. By such declaration, plaintiff withdrew its designation as confidential of Exhibits A
7 through Q, Exhibits T through V, and Exhibit X. Additionally, plaintiff represents therein that
8 non-party CMU has withdrawn its designation as confidential of Exhibits D, E, and H
9 through Q, and that non-party Eckert Seamans has withdrawn its designation as
10 confidential of Exhibit F. At the same time, plaintiff filed redacted versions of Exhibits R
11 and W in the public record, as Exhibits E and C, respectively, to the "Declaration of Rita E.
12 Tautkus in Response to July 16, 2008 Court Order Re: Administrative Motions to Seal
13 Documents."

14 Having reviewed the Administrative Motion, and the declarations filed in support
15 thereof, the Court finds the entirety of Exhibit S, pages 49:13-53:25 of Exhibit R, and page
16 7:9 of Exhibit W consist of sealable material, and that the designating parties have
17 withdrawn the designation of confidentiality with respect to the other subject exhibits and
18 the remaining portions of Exhibits R and W.

19 Accordingly,

20 1. The Administrative Motion is GRANTED with respect to Exhibit S and the above-
21 referenced portions of Exhibits R and W to the Sealed Declaration of Matthew H. Poppe,
22 and the Clerk is directed to file said exhibits under seal.

23 2. The Administrative Motion is DENIED with respect to Exhibits A through Q and
24 Exhibits T through V, and defendant is hereby DIRECTED to file said exhibits in the public
25 record no later than August 22, 2008. If defendant fails to timely file said exhibits in the
26 public record, the Court will not consider them in ruling on defendant's motion to transfer.

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28 ¹ Defendant has filed Exhibit X in the public record, as Exhibit D to the Supplemental
Declaration of Matthew H. Poppe.

1 3. The Administrative Motion is DENIED as moot with respect to Exhibits X and the
2 unredacted portions of Exhibits R and W, for the reason that said exhibits have been filed in
3 the public record.

4 **IT IS SO ORDERED.**

5 Dated: August 19, 2008


MAXINE M. CHESNEY
United States District Judge

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